

Adopted	Rejected
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COMMITTEE REPORT

YES:	18
NO:	4

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred Senate Bill 62, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 3, between lines 6 and 7, begin a new paragraph and insert:
- 2 "SECTION 2. IC 5-10.2-3-7.5 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 7.5.
- 4 (a) A surviving dependent or surviving spouse of a member who dies
- 5 in service is entitled to a survivor benefit if:
- 6 (1) the member dies after March 31, 1990;
- 7 (2) the member has:
- 8 (A) at least ten (10) years of creditable service, if the member
- 9 died in service as a member of the general assembly;
- 10 (B) at least fifteen (15) years of creditable service, if the
- 11 member died in service in any other position covered by the
- 12 retirement fund; or
- 13 (C) at least ten (10) years but not more than fourteen (14)
- 14 years of creditable service if the member:
- 15 (i) was at least sixty-five (65) years of age; and
- 16 (ii) died in service in a position covered by the teachers'

1 retirement fund; and

2 (3) the surviving dependent or surviving spouse qualifies for a
3 survivor benefit under subsection (b) or (c).

4 (b) If a member described in subsection (a) dies with a surviving
5 spouse who was married to the member for at least two (2) years, the
6 surviving spouse is entitled to a survivor benefit equal to the monthly
7 benefit that would have been payable to the spouse under the joint and
8 survivor option of IC 5-10.2-4-7 upon the member's death following
9 retirement at:

10 (1) fifty (50) years of age; or

11 (2) the actual date of death;

12 whichever is later. However, benefits payable under this subsection are
13 subject to subsections (e) and (g).

14 (c) If a member described in subsection (a) dies without a surviving
15 spouse who was married to the member for at least two (2) years, but
16 with a surviving dependent, the surviving dependent is entitled to a
17 survivor benefit in a monthly amount equal to the actuarial equivalent
18 of the monthly benefit that would have been payable to the spouse
19 (assuming the spouse would have had the same birth date as the
20 member) under the joint and survivor option of IC 5-10.2-4-7 upon the
21 member's death following retirement at:

22 (1) fifty (50) years of age; or

23 (2) the actual date of death;

24 whichever is later. If there are two (2) or more surviving dependents,
25 the actuarial equivalent of the benefit described in this subsection shall
26 be calculated and, considering the dependents' attained ages, an equal
27 dollar amount shall be determined as the monthly benefit to be paid to
28 each dependent. Monthly benefits under this subsection are payable
29 until the date the dependent becomes eighteen (18) years of age or dies,
30 whichever is earlier. However, if a dependent is permanently and
31 totally disabled (using disability guidelines established by the Social
32 Security Administration) at the date the dependent reaches eighteen
33 (18) years of age, the monthly benefit is payable until the date the
34 dependent is no longer disabled (using disability guidelines established
35 by the Social Security Administration) or dies, whichever is earlier.
36 Benefits payable under this subsection are subject to subsections (e)
37 and (g).

38 (d) Except as provided in subsections (e) and (h), the surviving

spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection (b) or (c) or section 7.6 of this chapter to the extent of the lump sum payment.

(e) If a member described in subsection (a) or section 7.6(a) of this chapter is survived by a designated beneficiary who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum **or over a period of up to five (5) years, as elected by the designated beneficiary**, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum **or over a period of up to five (5) years, as elected by the designated beneficiary**, equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit.

(f) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection (b) or (c) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection

(e);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

(g) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

(h) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection (b) or (c) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

(i) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

(j) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 3. IC 5-10.2-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) Except as provided in subsection (e), in computing the retirement benefit for a nonteacher member, "average of the annual compensation" means the average annual compensation calculated using the twenty (20) calendar quarters of service in a position covered by the retirement fund before retirement in which the member's annual compensation was the highest. However, in order for a quarter to be included in the twenty (20) calendar quarters, the nonteacher member must have performed service throughout the calendar quarter. All twenty (20) calendar quarters do not have to be continuous but they must be in groups of four (4) consecutive calendar quarters. The same calendar quarter may not be included in two (2) different groups.

(b) In computing the retirement benefit for a teacher member, "average of the annual compensation" means the average annual

1 compensation for the ~~five (5)~~ **three (3)** years of service before
 2 retirement in which the member's annual compensation was highest. In
 3 order for a year to be included in the ~~five (5)~~ **three (3)** years, the
 4 teacher member must have received for the year credit under
 5 IC 21-6.1-4-2 for at least one-half (1/2) year of service. The ~~five (5)~~
 6 **three (3)** years do not have to be continuous.

7 (c) Subject to IC 5-10.2-2-1.5 "annual compensation" means the
 8 basic salary earned by and paid to the member plus:

9 **(1) the amount that would have been part of that salary but for:**

10 ~~(1)~~ **(A)** the state's, a school corporation's, a participating
 11 political subdivision's, or a state educational institution's (as
 12 defined in IC 20-12-0.5-1) paying the member's contribution
 13 to the fund for the member; or

14 ~~(2)~~ **(B)** the member's salary reduction agreement established
 15 under Section 125, 403(b), or 457 of the Internal Revenue
 16 Code; **and**

17 **(2) in the case of a member who:**

18 **(A) is a teacher;**

19 **(B) after June 30, 2000, takes an unpaid leave of absence of**
 20 **any type during the year to serve in an appointed or**
 21 **elected position of public service with a governmental**
 22 **entity; and**

23 **(C) retires after June 30, 2000;**

24 **the additional amount that would have been paid to the**
 25 **member under the member's employment contract if the**
 26 **member had not taken the unpaid leave of absence described**
 27 **in clause (B).**

28 The portion of a back pay award or a similar award that the board
 29 determines is compensation under an agreement or under a judicial or
 30 an administrative proceeding shall be allocated by the board among the
 31 years the member earned or should have earned the compensation.
 32 Only that portion of the award allocated to the year the award is made
 33 is considered to have been earned during the year the award was made.
 34 Interest on an award is not considered annual compensation for any
 35 year.

36 (d) Compensation of no more than two thousand dollars (\$2,000)
 37 received from the employer in contemplation of the member's
 38 retirement, including severance pay, termination pay, retirement bonus,

or commutation of unused sick leave or personal leave, may be included in the total annual compensation from which the average of the annual compensation is determined, if it is received:

(1) before the member ceases service; or

(2) within twelve (12) months after the member ceases service.

(e) This section applies to a member of the general assembly:

(1) who is a participant in the legislators' retirement system established under IC 2-3.5;

(2) who is also a member of the public employees' retirement fund or the state teachers' retirement fund; and

(3) whose years of service in the general assembly may not be considered in determining the average of the annual compensation under this section, as provided in IC 2-3.5-1-2(b)(2) or IC 2-3.5-3-1(c).

The board shall use the board's actuarial salary increase assumption to project the salary for any previous year needed to determine the average of the annual compensation.

SECTION 4. IC 5-10.3-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) ~~Monies~~ **Money** from the pension relief fund shall be paid annually by the state board under the procedures specified in this section.

(b) Before April 1 of each year, each unit of local government must certify to the state board:

(1) the amount of payments made during the preceding year for benefits under its pension funds covered by this chapter, referred to in this section as "pension payments";

(2) the data determined necessary by the state board to perform an actuarial valuation of the unit's pension funds covered by this chapter; and

(3) the names required to prepare the list specified in subsection (c).

A unit is ineligible to receive a distribution under this section if it does not supply before April 1 of each year (i) the complete information required by this subsection; or (ii) a substantial amount of the information required if it is accompanied by an affidavit of the chief executive officer of the unit detailing the steps which have been taken to obtain the information and the reasons the complete information has not been obtained. This subsection supersedes the reporting

1 requirement of IC 5-10-1.5 as it applies to pension funds covered by
2 this chapter.

3 (c) Before July 1 of each year, the state board shall prepare a list of
4 all police officers and firefighters, active, retired, and deceased if their
5 beneficiaries are eligible for benefits, who are members of a police or
6 fire pension fund that was established before May 1, 1977. The list may
7 not include police officers, firefighters, or their beneficiaries for whom
8 no future benefits will be paid. The state board shall then compute the
9 present value of the accrued liability to provide the pension and other
10 benefits to each person on the list.

11 (d) Before July 1 of each year, the state board shall determine the
12 total pension payments made by all units of local government for the
13 preceding year and shall estimate the total pension payments to be
14 made to all units in the calendar year in which the July 1 occurs **and in**
15 **the following calendar year.**

16 (e) ~~Each~~ **For a particular** calendar year, the state board shall
17 ~~distribute to in the preceding calendar year determine for~~ each unit
18 of local government ~~in two (2) equal installments on or before June 30~~
19 ~~and on or before October 1;~~ an amount (D_y). **The state board shall,**
20 **before July 1 of the preceding calendar year, distribute to each**
21 **eligible unit of local government the amount (D_y) determined for**
22 **the unit. The amount (D_y) shall be** determined by the following
23 STEPS:

24 STEP ONE. Subtract the total distribution made to units (D_{y-1}) in the
25 preceding calendar year from the total pension payments made by units
26 (P_{y-1}) in the preceding calendar year.

27 STEP TWO. Multiply the STEP ONE difference by $(1+k)$ as (k) is
28 determined in STEP THREE.

29 STEP THREE. Determine the annual percentage increase (k) in the
30 STEP ONE difference which will allow the present value of all future
31 estimated distributions, as computed under STEP FOUR, from the
32 pension relief fund to equal the "k portion" of the pension relief fund
33 balance plus the present value of all future receipts to the "k portion"
34 of the fund, but which will not allow the "k portion" of the pension
35 relief fund balance to be negative. These present values shall be
36 determined based on the current long term actuarial assumptions. The
37 "k portion" of the pension relief fund balance is the total pension relief
38 fund balance less the "m portion" of the fund. The percentage increase

(k) shall be computed to the nearest one thousandth of one percent (.001%). All years, after the year 2000, in which the receipts to the fund plus the net pension payments by all the units equal or exceed the total pension payments shall be ignored for the purposes of these calculations.

STEP FOUR. Subtract the STEP TWO product from the estimated total pension payments to be made by all units (P_y) in the calendar year ~~in~~ **for** which the distribution is to be made.

STEP FIVE. Multiply the STEP FOUR difference by ~~one-half (1/2)~~ **of** the sum of two quotients, (1) the quotient of the unit's number of police officers and firefighters on December 31 of the year before the year of the distribution who are members of a pension fund established before May 1, 1977, who are retired, and who are deceased if their beneficiaries are eligible for benefits (unit) divided by the total number of these police officers and firefighters (total units) on December 31 of the year before the year of the distribution in all units plus (2) the quotient of the unit's pension payments (payments) divided by the total pension payments (total payments) by all units.

Expressed mathematically:

$$D_y = (P_y - ((P_{y-1} - D_{y-1}) \times (1 + k))) \times \frac{1}{2}$$

(unit/(total unit) + payment/(total payment)).

(f) If in any year the distribution made to a unit of local government is larger than the unit's pension payments to its retirees and their beneficiaries for that year, the excess may not be distributed to the unit but must be transferred to the 1977 police officers' and firefighters' pension and disability fund and the unit's contributions to that fund shall be reduced for that year by the amount of the transfer.

(g) If in any year after 2000, the STEP FOUR difference under subsection (e) is smaller than the revenue to the pension relief fund in that year, then the revenue plus interest plus the fund balance in that year shall be used in STEP FIVE of subsection (e) instead of the STEP FOUR difference.

(h) The state board shall have its actuary report annually on the appropriateness of the actuarial assumptions used in determining the distribution amount under subsection (e). At least every five (5) years, the state board shall have its actuary recompute the value of (k) under STEP TWO of subsection (e).

(i) Each calendar year the state board shall determine the amounts

to be allocated to the "m portion" of the pension relief fund under the following STEPS, which shall be completed before July 1 of each year:

STEP ONE. The state board shall determine the following:

(1) "Excess earnings", which are the state board's projection of earnings for the calendar year from investments of the "k portion" of the fund that exceed the amount of earnings that would have been earned if the rate of earnings was the rate assumed by the actuary of the state board in his calculation of (k) under STEP THREE of subsection (e).

(2) "Prior deficit amount", which is:

(A) the amount of earnings that would have been earned under the rate assumed by the actuary of the state board in his calculation of (k) under STEP THREE of subsection (e); minus

(B) the amount of earnings received;

for a calendar year after 1981 in which (B) is less than (A).

STEP TWO. The state board shall distribute to the "m portion" the excess earnings less any prior deficit amounts.

(j) The "m portion" of the fund shall be any direct allocations plus:

(1) amounts allocated under subsection (i); and

(2) any earnings on the "m portion" less amounts previously distributed under subsection (l).

(k) The state board shall determine, **based on actual experience and reasonable projections**, the units eligible for distribution from the "m portion" of the pension relief fund according to the following STEPS:

STEP ONE. Determine the amount of pension payments **to be** paid by the unit in the ~~preceding~~ calendar year, net of the amount of the distribution **to be** received by the unit under subsection (e) in that year, plus contributions **to be** made under IC 36-8-8 in that year.

STEP TWO. Divide the amount determined under STEP ONE by the amount of the maximum permissible ad valorem property tax levy for the unit as determined under IC 6-1.1-18.5 for the ~~preceding~~ calendar year.

STEP THREE. If the quotient determined under STEP TWO is equal to or greater than one-tenth (0.1), the unit shall receive a distribution under subsection (l).

(l) **For a particular calendar year, the state board shall before**

July 1 of ~~each the preceding calendar~~ year ~~the state board shall~~ distribute from the "m portion" of the pension relief fund to the extent there are assets in the "m portion" to each eligible unit an amount, not less than zero (0), determined according to the following STEPS:

STEP ONE. For the first of consecutive years that a unit is eligible to receive a distribution under this subsection, determine the amount of pension payments paid by the unit in the calendar year two (2) years preceding the calendar year net of the amount of distributions received by the unit under subsection (e) in the calendar year two (2) years preceding the calendar year.

STEP TWO. For the first of consecutive years that a unit is eligible to receive a distribution under this subsection, divide the amount determined under STEP ONE by the amount of the maximum permissible ad valorem property tax levy for the unit as determined under IC 6-1.1-18.5 for the calendar year two (2) years preceding the calendar year.

STEP THREE. For the first and all subsequent consecutive years that a unit is eligible to receive a distribution under this subsection, multiply the amount of the maximum permissible ad valorem property tax levy for the unit as determined under IC 6-1.1-18.5 for the ~~preceding~~ calendar year by the quotient determined under STEP TWO.

STEP FOUR. Subtract the amount determined under STEP THREE from the amount of pension payments ~~to be~~ paid by the unit in the ~~preceding~~ calendar year, net of distributions ~~to be~~ received under subsection (e) for the ~~preceding~~ calendar year."

Page 3, line 11, strike "two (2) equal installments on or before".

Page 3, line 11, strike "30 and on or before".

Page 3, line 12, strike "October 1," and insert "**of each year,**".

Page 6, line 18, after "8.1" insert ".".

Page 31, line 27, after "13.6" insert ".".

Page 33, line 21, after "13.7" insert ".".

Page 45, line 31, delete "subdivision (1)(B)" and insert "**clause (B)**".

Page 47, line 3, delete "subdivision (1)(B)" and insert "**clause (B)**".

Page 50, after line 2, begin a new paragraph and insert:

"SECTION 32. [EFFECTIVE JULY 1, 2000] **IC 5-10.2-4-3, as amended by this act, applies only to members who retire after June 30, 2000.**

SECTION 33. [EFFECTIVE UPON PASSAGE] (a) **The definitions**

1 set forth in IC 5-10.3-11 apply to this SECTION.

2 (b) Notwithstanding the amendments made to IC 5-10.3-11-4 by
3 this act, in calendar year 2000 the state board shall make
4 distributions from the pension relief fund to eligible units of local
5 government both under IC 5-10.3-11-4, as in effect before
6 amendment by this act, and under IC 5-10.3-11-4, as in effect after
7 amendment by this act. However, the distributions to be made
8 under IC 5-10.3-11-4, as in effect after amendment by this act, shall
9 be made in one (1) installment before December 1, 2000.

10 (c) IC 5-10.3-11-4, as amended by this act, applies beginning
11 with distributions attributable to 2001 that are calculated and
12 made in 2000.

13 SECTION 34. An emergency is declared for this act."

14 Renumber all SECTIONS consecutively.

(Reference is to SB 62 as printed January 21, 2000.)

and when so amended that said bill do pass.

Representative Bauer